

AMENDED IN ASSEMBLY MAY 23, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2200

Introduced by Assembly Member John A. Pérez

February 20, 2014

An act to add and repeal Chapter 4.5 (~~commencing with Section 8305~~) of Division 1 5.8 (*commencing with Section 11549.50*) of Part 1 of Division 3 of Title 2 of the Government Code, relating to cyber security.

LEGISLATIVE COUNSEL'S DIGEST

AB 2200, as amended, John A. Pérez. California Cyber Security Commission.

Existing law establishes various advisory boards and commissions in state government with specified duties and responsibilities. *Existing law until January 1, 2015, establishes in state government the Department of Technology within the Government Operations supervised by the Director of Technology.*

This bill would create the California Cyber Security Commission in the Department of Technology consisting of 12 members comprised of representatives from state, local, and federal government, the Legislature, and private industries, as specified: *government, appointed representatives from the private sectors in the technology or cybersecurity industry and utility, energy, or telecommunications industry, and an appointed representative of California's critical infrastructure interests. The bill would also authorize the commission to appoint representatives from state, local, federal, and private entities to form an advisory board in order to receive input or advice concerning the implementation of the duties of the commission.* The duties of the

commission would include establishing cyber-attack response strategies and defining a hierarchy of command within the state for this purpose. The bill would require the commission to meet on a ~~monthly~~ *quarterly* basis, *or as specified*, and would require the commission to issue a report on a quarterly basis to the Governor's Office and the Legislature that details the cyber security status and progress of the state and makes recommendations on how to improve the cyber security of the state.

~~This~~

The bill would abolish the commission, and repeal these provisions, on January 1, ~~2020~~ 2019.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter ~~4.5~~ 5.8 (commencing with Section ~~8305~~)
2 11549.50) is added to ~~Division Part 1 of Title 2~~ Division 3 of Title
3 2 of the Government Code, to read:

4
5 CHAPTER ~~4.5~~ 5.8. CALIFORNIA CYBER SECURITY COMMISSION
6
7 8305.

8 11549.50. The Legislature finds and declares all of the
9 following:

10 (a) The State of California's growing dependence on technology
11 has made it increasingly vulnerable to both foreign and domestic
12 cyber security attacks. Thus far, there has been a fragmented
13 approach to this issue with independent efforts occurring through
14 federal, state, and local government, as well as in the state's
15 universities and within private industry. For the purposes of public
16 safety and protection of public assets, the state has a role in
17 coordinating and improving its overall security and response
18 capabilities.

19 (b) The market for cyber security is estimated to be more than
20 seventy billion dollars (\$70,000,000,000) in 2014. Of that amount,
21 sixty-seven billion dollars (\$67,000,000,000) is estimated to be
22 spent nationally by private companies for computer and network
23 security and the United States Department of Defense is planning
24 to spend four billion six hundred million dollars (\$4,600,000,000).
25 The United States Department of Defense is planning on spending

1 twenty-three billion dollars (\$23,000,000,000) over the next five
2 years. Overall spending is expected to increase rapidly as
3 recognition of threats becomes more ubiquitous. The California
4 economy stands to greatly benefit from this industry growth.

5 (c) The State of California has already made investments for
6 the purpose of cyber security; examples of which are research
7 funding for the Lawrence Livermore National Laboratory and
8 funding to augment a cyber security assessment and response team
9 within the California National Guard.

10 (d) The California Cyber Security Task Force was initiated in
11 May 2013 for the purposes of identifying critical threats,
12 assembling primary stakeholders, and highlighting the growing
13 importance of the issue. Among other things, this has increased
14 awareness of the state's compliance with the new federal National
15 Institute of Standards and Technology (NIST) standards and the
16 Office of Emergency Services establishing Emergency Function
17 18, created particularly for cyber security.

18 (e) Over 50,000 new malicious online activities are identified
19 every day, according to the United States Department of Defense.
20 Incidents of sophisticated and well-coordinated attacks and data
21 breaches are occurring more regularly, the average cost of which
22 amounts to more than ten million dollars (\$10,000,000). In 2012,
23 a data breach to the state of South Carolina required more than
24 twenty million dollars (\$20,000,000) in response and restitution.
25 The State of California is vulnerable technically, legally, and
26 financially to these threats.

27 ~~8305.1.~~

28 ~~11549.51.~~ (a) There is in the ~~state government~~ *Department*
29 *of Technology* the California Cyber Security Commission. The
30 commission shall consist of the following members:

31 (1) *The Director of the Department of Technology, or his or*
32 *her designee with knowledge, expertise, and decisionmaking*
33 *authority with respect to the director's information technology*
34 *and information security duties set forth in Chapter 5.6*
35 *(commencing with Section 11545).*

36 (2) *The Chief of the Office of Information Security, or his or*
37 *her designee with knowledge, expertise, and decisionmaking*
38 *authority with respect to the chief's information technology and*
39 *information security duties set forth in Chapter 5.7 (commencing*
40 *with Section 11549).*

1 ~~(1)~~

2 ~~(3) The Director of Emergency Services and Services, or his or~~
3 ~~her designee with knowledge, expertise, and decisionmaking~~
4 ~~authority with respect to the Office of Emergency Services's~~
5 ~~information technology and information security. The director~~
6 ~~may designate an individual to serve on his or her behalf if the~~
7 ~~individual has knowledge, expertise, and decisionmaking authority~~
8 ~~with respect to the Office of Emergency Services's information~~
9 ~~technology and information security.~~

10 ~~(4) The Attorney General, or his or her designee with knowledge,~~
11 ~~expertises, and decisionmaking authority with respect to the~~
12 ~~Department of Justice's information technology and information~~
13 ~~security.~~

14 ~~(2)~~

15 ~~(5) The Adjutant General of the Military Department and, or~~
16 ~~his or her designee with knowledge, expertise, and decisionmaking~~
17 ~~decisionmaking authority with respect to the Military Department's~~
18 ~~information technology and information security. The Adjutant~~
19 ~~General may designate an individual to serve on his or her behalf~~
20 ~~if the individual has knowledge, expertise, and decisionmaking~~
21 ~~authority with respect to the Military Department's information~~
22 ~~technology and information security.~~

23 ~~(3) The Director of Technology, or his or her designee to serve~~
24 ~~on his or her behalf if the individual has knowledge, expertise, and~~
25 ~~decisionmaking authority with respect to the Department of~~
26 ~~Technology's information technology and information security.~~

27 ~~(4) The Chief of the Office of Information Security, or his or~~
28 ~~her designee to serve on his or her behalf if the individual has~~
29 ~~knowledge, expertise, and decisionmaking authority with respect~~
30 ~~to the office's information technology and information security.~~

31 ~~(5) The Commission President of the Public Utilities~~
32 ~~Commission, or his or her designee to serve on his or her behalf~~
33 ~~if the individual has knowledge, expertise, and decisionmaking~~
34 ~~authority with respect to the commission's information technology~~
35 ~~and information security.~~

36 ~~(6) The Director of Transportation, or his or her designee to~~
37 ~~serve on his or her behalf if the individual has knowledge,~~
38 ~~expertise, and decisionmaking authority with respect to the~~
39 ~~Department of Transportation's information technology and~~
40 ~~information security.~~

1 ~~(7)~~

2 ~~(6) The Insurance Commissioner, or his or her designee to serve~~
3 ~~on his or her behalf if the individual has~~ *with* knowledge, expertise,
4 and decisionmaking authority with respect to the Department of
5 Insurance's information technology and information security.

6 ~~(8) The State Public Health Officer, or his or her designee to~~
7 ~~serve on his or her behalf if the individual has~~ knowledge,
8 expertise, and decisionmaking authority with respect to the State
9 Department of Public Health's information technology and
10 information security.

11 ~~(9) Four representatives appointed by the Governor who meet~~
12 ~~the following requirements:~~

13 ~~(A) A representative of the University of California who has~~
14 ~~done research in the area of information technology and~~
15 ~~information security.~~

16 ~~(B) A representative of the California State University who has~~
17 ~~done research in the area of information technology and~~
18 ~~information security.~~

19 ~~(C) A representative from a private university in California who~~
20 ~~has done research in the area of information technology and~~
21 ~~information security.~~

22 ~~(D) A representative from the Lawrence Livermore National~~
23 ~~Laboratory or Lawrence Berkeley National Laboratory who has~~
24 ~~done research in the area of information technology and~~
25 ~~information security.~~

26 ~~(10) Three representatives appointed by the Governor who meet~~
27 ~~the following requirements:~~

28 ~~(A) A representative from the Bureau of Investigations or the~~
29 ~~Federal Bureau of Investigation who has knowledge, expertise,~~
30 ~~and experience with enforcement or prosecution of cyber crimes.~~

31 ~~(B) A representative from the Department of the California~~
32 ~~Highway Patrol who has knowledge, expertise, and experience~~
33 ~~with enforcement or prosecution of cyber crimes.~~

34 ~~(C) A representative from the Department of Justice who has~~
35 ~~knowledge, expertise, and experience with enforcement or~~
36 ~~prosecution of cyber crimes.~~

37 ~~(11) Three representatives from local government who have~~
38 ~~knowledge, expertise, and experience with emergency response~~
39 ~~to information security breaches. One representative shall be~~
40 ~~appointed by the Governor, one representative shall be appointed~~

1 by the Speaker of the Assembly, and one representative shall be
2 appointed by the Senate Committee on Rules.

3 (12) ~~Four representatives from the retail, finance, utilities, health~~
4 ~~care, or technology industries who have knowledge, expertise, and~~
5 ~~experience with information technology and information security.~~
6 ~~Two representatives shall be appointed by the Governor, one~~
7 ~~representative shall be appointed by the Speaker of the Assembly,~~
8 ~~and one representative shall be appointed by the Senate Committee~~
9 ~~on Rules.~~

10 (13) ~~Two representatives who are chairpersons from committees~~
11 ~~of the Assembly that address information technology and~~
12 ~~information security, who shall be appointed by the Speaker of~~
13 ~~the Assembly. These representatives shall serve as nonvoting~~
14 ~~members in an advisory capacity.~~

15 (14) ~~Two representatives who are chairpersons from committees~~
16 ~~of the Senate that address information technology and information~~
17 ~~security, who shall be appointed by the Senate Committee on~~
18 ~~Rules. These representatives shall serve as nonvoting members in~~
19 ~~an advisory capacity.~~

20 (b) ~~The commission may also include two representatives from~~
21 ~~the United States Department of Homeland Security who have~~
22 ~~knowledge, expertise, and experience in the area of information~~
23 ~~technology and information security, who serve in a voluntary~~
24 ~~capacity and as nonvoting members.~~

25 (c) ~~The Director of Emergency Services and the Director of~~
26 ~~Technology, or their designees to serve on their behalfs if those~~
27 ~~individuals have knowledge, expertise, and experience with~~
28 ~~information technology and information security, shall serve as~~
29 ~~cochairs of the commission.~~

30 (7) *The Secretary of Health and Human Services, or his or her*
31 *designee with knowledge, expertise, and decisionmaking authority*
32 *with respect to the California Health and Human Services Agency's*
33 *information technology and information security.*

34 (8) *The Director of Transportation, or his or her designee with*
35 *knowledge, expertise, and decisionmaking authority with respect*
36 *to the Department of Transportation's information technology and*
37 *information security.*

38 (9) *The Controller, or his or her designee with knowledge,*
39 *expertise, and decisionmaking authority with respect to the office*

1 of the Controller's information technology and information
2 security.

3 (10) A representative from the private sector in the technology
4 or cybersecurity industry, who shall be appointed by the Governor.

5 (11) A representative from the private sector in the utility,
6 energy, or telecommunications industry, who shall be appointed
7 by the Speaker of the Assembly.

8 (12) A representative of California's critical infrastructure
9 interests, such as air traffic control, ports, and water systems, who
10 shall be appointed by the Senate Committee on Rules.

11 (b) (1) Each representative appointed by the Governor, Speaker
12 of the Assembly, or Senate Committee on Rules shall be appointed
13 to serve a two-year term.

14 (2) Any representative may serve consecutive terms.

15 (c) Any designee shall serve at the pleasure of the official who
16 designated them.

17 (d) ~~Twenty~~Nine members shall constitute a quorum for the
18 transaction of business, and all official acts of the commission
19 shall require the affirmative vote of a majority of its members
20 constituting a quorum.

21 (e) The members of the commission shall serve without
22 compensation, except that each member of the commission shall
23 be entitled to receive his or her actual necessary traveling expenses
24 while on official business of the commission.

25 11549.52. (a) The commission may appoint representatives
26 to form an advisory board in order to receive input or advice
27 concerning the implementation of the duties of the commission.

28 (b) The advisory board may be comprised of one or more
29 representatives from the following:

30 (1) The United States Department of Homeland Security.

31 (2) The National Institute for Standards and Technology.

32 (3) State government.

33 (4) Local government.

34 (5) California's utility grid, both private and public.

35 (6) Technology firms, cybersecurity firms, critical infrastructure
36 operators, utility providers, financial firms, health care providers,
37 and other private industries.

38 (7) California's cybersecurity law enforcement apparatus, which
39 includes:

40 (A) The Attorney General's eCrimes Unit.

1 (B) *The five regional task forces of the High Technology Theft*
2 *Apprehension and Prosecution Program.*

3 (C) *The Department of the California Highway Patrol.*

4 (8) *Entities operating with the commission to perform its duties,*
5 *including:*

6 (A) *The State Threat Assessment Center and fusion centers, for*
7 *the purpose of sharing information that informs preventive actions.*

8 (B) *The California National Guard's Computer Network Defense*
9 *Team, for the purpose of coordinating comprehensive risk*
10 *assessments.*

11 (C) *California's public and private universities and laboratories*
12 *for the purpose of directing research and best utilizing its results.*

13 (c) *The commission shall appoint each representative by a*
14 *majority vote of its members constituting a quorum. Each*
15 *representative shall serve at the pleasure of the commission.*

16 ~~8305.2.~~

17 ~~11549.53.~~ The commission shall meet ~~monthly, commencing~~
18 ~~in January 2015,~~ *quarterly, or more often as determined by a*
19 *majority vote of its members constituting a quorum, or in the event*
20 *of an emergency.*

21 ~~8305.3.~~

22 ~~11549.54.~~ (a) The commission shall focus on improving the
23 state's cyber security and cyber response capabilities by developing
24 partnerships with the public and private sector as well as the
25 academic and nongovernmental world to share cyber security and
26 cyber threat information to enable state government to protect and
27 secure important information and data, intellectual property,
28 financial networks, and critical infrastructure.

29 (b) The duties of the commission shall include, but not be limited
30 to, the following:

31 (1) Working with the United States Department of Homeland
32 Security to define a system of information sharing regarding cyber
33 threat monitoring and response.

34 (2) Recommending minimum security standards for all state
35 agencies.

36 (3) Researching in conjunction with academia and others to
37 expand and improve state cyber security capability.

38 (4) Expanding public-private cyber security partnerships.

39 (5) Establishing cyber-attack response strategies and defining
40 a hierarchy of command within the state for this purpose.

1 (6) Providing training for state employees and others to produce
2 credentialed cyber security employees.

3 (7) Developing with the Department of Insurance a strategy to
4 acquire cyber insurance for state agencies and assets.

5 (8) Proposing potential governmental reorganization to enhance
6 the state's cyber security and response capabilities.

7 (9) Exploring fiscal options to fund the commission and its
8 various activities, including the activities of some of its specific
9 members, including the California National Guard's computer
10 network defense team (CND).

11 (c) The commission shall issue a report on a quarterly basis to
12 the Governor's Office and the Legislature that details the cyber
13 security status and progress of the state and makes
14 recommendations on how to improve the cyber security of the
15 state. The reports shall be submitted in compliance with Section
16 9795.

17 ~~8305.4.~~

18 ~~11549.57.~~ This chapter shall become inoperative on January
19 ~~1, 2020,~~ 2019, and shall be repealed as of that date.